



**ENVIRONMENTAL PROTECTION AGENCY**

6560-50-P

**40 CFR Part 271**

**[EPA-R01-RCRA-2013-0554; FRL – 9904-47-Region 1]**

**Vermont: Final Authorization of State Hazardous Waste Management Program Revisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct Final Rule.

**SUMMARY:** The State of Vermont has applied to the Environmental Protection Agency (EPA) for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this direct final action.

**DATES:** This rule is effective on *[insert date 60 days after the date of publication in the Federal Register]* without further notice, unless EPA receives adverse written comment by *[insert date 30 days after the date of publication in the Federal Register]*. If EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-RCRA-2013-0554, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- Email: [leitch.sharon@epa.gov](mailto:leitch.sharon@epa.gov)
- Fax: (617) 918-0647, to the attention of Sharon Leitch.
- Mail: Sharon Leitch, RCRA Waste Management and UST Section, Office of Site

Remediation and Restoration (OSRR07-1), US EPA Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912.

- Hand Delivery: Sharon Leitch, RCRA Waste Management and UST Section, Office of Site Remediation and Restoration (OSRR07-1), US EPA Region 1, 5 Post Office Square, 7th floor, Boston, MA 02109-3912. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please contact Sharon Leitch at (617) 918-1647.

Instructions: Direct your comments to Docket ID No. EPA-R01-RCRA-2013-0554. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special

characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Region 1 Library, 5 Post Office Square, 1st floor, Boston, MA 02109-3912; by appointment only; tel: (617) 918-1990.

**FOR FURTHER INFORMATION CONTACT:** Sharon Leitch, RCRA Waste Management and UST Section, Office of Site Remediation and Restoration, (Mail Code: OSRR07-1), EPA Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912; telephone number: (617)918-1647; fax number (617)918-0647; e-mail address: [leitch.sharon@epa.gov](mailto:leitch.sharon@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What Decisions Have We Made in this Rule?**

We have concluded that Vermont's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Vermont Final authorization to operate its hazardous waste program with the changes described in the authorization application. Vermont has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program covered by its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement any such requirements and prohibitions in Vermont, including issuing permits, until the State is granted authorization to do so.

**C. What Is the Effect of Today's Authorization Decision?**

The effect of this decision is that a facility in Vermont subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Vermont has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA also retains its full authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions

This action does not impose additional requirements on the regulated community because

the regulations for which Vermont is being authorized by today's action are already effective under state law, and are not changed by today's action.

**D. Why Wasn't There a Proposed Rule Before Today's Rule?**

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect adverse comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the "Proposed Rules" section of today's Federal Register we are publishing a separate document that proposes to authorize the State program changes.

**E. What Happens if the EPA Receives Comments that Oppose this Action?**

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the Federal Register before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule based upon this proposed rule that also appears in today's Federal Register. You may not have another opportunity to comment. If you want to comment on this authorization, you should do so at this time.

If we receive adverse comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified in this document. The Federal Register withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

**F. What has Vermont Previously Been Authorized for?**

The State of Vermont initially received Final authorization on January 7, 1985, with an effective date of January 21, 1985 (50 FR 775) to implement the RCRA hazardous waste management program. The Region published an immediate final rule for certain revisions to Vermont's program on May 3, 1993 (58 FR 26242) and reopened the comment period for these revisions on June 7, 1993 (58 FR 31911). This authorization became effective August 6, 1993 (58 FR 31911). The Region granted authorization for further revisions to Vermont's program on September 24, 1999 (64 FR 51702), effective November 23, 1999. On October 18, 1999 (64 FR 46174) the Region published a correction to the immediate final rule that was published on September 24, 1999. The Region granted authorization for further revisions to Vermont's program on October 26, 2000, effective December 26, 2000 (65 FR 64164). That Federal Register also made a technical correction. On June 23, 2005 (70 FR 36350) the Region published an immediate final rule for additional revisions to Vermont's program. This authorization became effective on August 22, 2005. The most recent authorization was granted to Vermont on March 16, 2007 (72 FR 12568) and became effective on May 15, 2007.

**G. What Changes Are We Authorizing with Today's Action?**

On August 20, 2013, Vermont submitted a final complete program revision application, seeking authorization for their changes in accordance with 40 CFR 271.21. In particular, Vermont is seeking authorization for updated state regulations addressing federal requirements added from July 1, 2005 through June 30, 2011. Also, Vermont is seeking authorization for various changes it recently has made to its base program regulations.

We are now making an immediate final decision that, subject to reconsideration only if we receive written comments that oppose this action, Vermont's hazardous waste program

revisions satisfy all of the requirements necessary to qualify for Final authorization. Therefore, we grant Vermont Final authorization for the following program changes. First, we are authorizing state regulations that track federal regulations adopted since July 1, 2005, as follows (the Federal Citation is followed by the analog from chapter 7 of the Vermont Environmental Protection Rules (Hazardous Waste Management Regulations), effective March 15, 2013):

Federal: *Methods Innovation Rule and SW-846 Final Update IIIB* [70 FR 34538, June 14, 2005. As amended August 1, 2005; 70 FR 44150] (Checklist 208)- State: 7-106(a), 7-109(a), 7-109(b)(1), 7-202(a)(9), 7-205(a)(1), 7-206(a)(1) & (a)(2), 7-210, 7-217(c), 7-219, 7-219(c), 7-219(e), 7-504(e)(1), 7-505(c), 7-510(c)(1), 7-511(a) & (d), 7-805(f), 7-811(b)(5), 7-812(d), 7-813(a); Federal: *Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (“Headworks exemptions”)* [70 FR 57769, October 4, 2005] (Checklist 211)- State: 7-109(a) and 203(k)(3); Federal: *Burden Reduction Initiative*; [71 FR 16862, April 4, 2006] (Checklist 213) – State: 7-106(a), 7-109(a), 7-109(b)(1), 7-204(b)&(c), 7-203(i)(4), 7-504(e)(1), 7-505(c), 7-507(f)(1), 7-510(c)(1); Federal: *Corrections to Errors in the Code of Federal Regulations* [71 FR 40254, July 14, 2006] (Checklist 214) – State: 7-103, 7-106(a), 7-108(d), 7-109(a), 7-109(b)(1) & (b)(2), 7-203(i)(4), 7-203(v), 7-203(r), 7-204(f), 7-204(f)(3), 7-204(g), 7-204(g)(1) & (g)(2), 7-205(a)(3) & (a)(4), 7-205(a)(4)(A), (B), (C) & (D), 7-208(b), 7-210, 7-215, 7-217(c), 7-311(h), 7-501, 7-502(d), 7-504, 7-504(e)(1), 7-505, 7-505(c), 7-507(f)(1), 7-508(e)(2), 7-510(c)(1), 7-510(d), 7-512, 7-606, 7-608, 7-705(b)(2), 7-705(d), 7-706(c), 7-708(c), 7-802, 7-803, 7-805(f)(2), 7-806(e), 7-811(b)(3), 7-811(b)(5)(A), 7-811(b)(6)(A), 7-811(i)(1), 7-811(i)(3)(A), 7-812(c), 7-812(d), 7-813, 7-902(d), 7-911, 7-912(d)(2), Appendix I, II, III, IV & IX; Federal: *Academic Laboratories Generator Standards and Technical Corrections* [73 FR 72912,

December 1, 2008 and 75 FR 79304, December 20, 2010] (Checklists 220 and 226) – State: 7-103, 7-109(b)(4), 7-305(a)(7), 7-306(c)(1)(A), 7-306(d), 7-307(c)(1) and (6), 7-307(d), 7-308(b)(1) and (6), 7-308(c); *OECD Requirements; Export Shipments of Spent Lead-Acid Batteries* [75 FR 1236, January 8, 2010] (Checklist 222) – State: 7-109(a), 7-204(f)(3), 7-307(c)(8 & 9), 7-308(b)(8 & 9), 7-402(b), 7-504(e), 7-510(c), 7-704(c) & (e), 7-705(c) & (d), 7-706(c), 7-707(c) (but note that EPA directly administers the export and import requirements in 40 C.F.R. part 262, subpart H referenced by the State regulations); *Hazardous Waste Technical Corrections and Clarifications* [75 FR 12989, March 18, 2010 and 75 FR 31716, June 4, 2010] (Checklist 223) – State: 7-103, 7-106(a), 7-109(a) & (a)(7), 7-202(e), 7-203(j)(1), 7-203(j)(3), 7-204(f), 7-204(g), 7-207(a)(8), 7-209(b), 7-210, 7-306, 7-306(a)(2) & (a)(3), 7-306(b) & (c), 7-307(c)(4), 7-308(a) & (b) and “Note” in (b), 7-310(a), 7-311(c), 7-504(e)(1), 7-510(c)(1), 7-512, 7-607, 7-608, 7-702(b)(12), 7-706(b), 7-707(a), (b) & (d), 7-708(a), Appendix I, III, & IV; *Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents* [75 FR 78918, December 17, 2010] (Checklist 225) – State: Appendix II & III; *Revision of the Land Disposal Treatment Standards for Carbamate Wastes* [76 FR 34147, June 13, 2011] (Checklist 227) – State: IBR, 7-106(a).

In addition to the regulations listed above, there are various previously authorized state program regulations to which the state has made changes. The EPA is also authorizing these changes. These changes are as follows: Regarding Subchapter 1 of the State Regulations, Federal: definitions in 40 CFR 260.10 – State: added definitions of elementary neutralization unit, tank system and wastewater treatment unit (instead of citing federal definitions), revised definitions of pesticidal waste, registration, and used oil, and removed the definition for



“performance track member facility” in 7-103; Federal: 40 CFR 262.12 (i.d. numbers) – State: provisions for temporary i.d. numbers added to 7-104; Federal: 40 CFR part 260 -279 – State: general update to incorporation by reference of federal regulations, 7-109(a); Regarding Subchapter 2 of the State Regulations, Federal: 40 CFR 262.11 (waste determinations) – State: 7-202(d) revised to clarify recordkeeping requirements; Federal: 40 CFR 261.4(a)(13) and (14) (scrap metal and shredded circuit board exemptions. Note: EPA interprets the scrap metal exemption to cover intact circuit boards that meet certain conditions.) – State: Revision to 7-204(h) allowing intact as well as shredded circuit boards, meeting the required conditions, to qualify for the exemption; Federal: 40 CFR 261.2(c)(2)(ii), exemption for certain commercial chemical products burned as fuels – State: clarified container and tank marking requirements and added requirements for aggregation facilities, 7-204(1)(4) and (6); Federal: 40 CFR 261.33(c), regarding commercial chemical products listings – State: 7-214(d) and 7-215(d) revised to track the federal language; Regarding Subchapter 3 of the State Regulations, Federal: 40 CFR 262.12 (i.d. nos.) – State: 7-304(a), revision clarifying that temporary i.d. numbers are only issued for hazardous wastes that are episodically generated; Federal: 40 CFR 265.111, 265.114 and 265.197 (generator closure) – State: revisions to generator closure requirements at 7-304(d) and 7-309(c)(2), being authorized as applied to tank closures and is broader in scope as applied to closure of other units; Federal: 40 CFR 262.34(d), small quantity generators – State: clarification of small quantity generator requirements in 7-307; Federal: 40 CFR 262.34(a), large quantity generators – State: clarification of large quantity generator requirements in 7-308; Federal: 40 CFR 262.34(d)(5)(iv), regulation of small quantity generator emergency response requirements – State: revised, 7-307(c)(14) by revising subsection (A) and adding subsection (D) making it

equivalent to the federal requirements; Federal: 40 CFR 265.32(b), preparedness and prevention requirements for large quantity generators and small quantity generators as referenced in 40 CFR 262.34(a)(4) and 40 CFR 262.34(d)(4), respectively – State: revised to make the requirements more up-to-date with current practices (e.g., substituted reference to cell phone for reference to two-way radios), 7-307(c)(14)(B), 7-308(b)(14)(A)(iv), 7-309(a)(1)(B), and 7-309(a)(3)(B); Federal: 40 CFR 261.5, requirements for CESQGs – State: 7-306, except for 7-306(c)(1)(G) (fees). Note: 7-306 previously was authorized in 1999 with respect to Checklist 153, we are now confirming that this provision is authorized for all purposes, not just with respect to Checklist 153; Federal: 40 CFR 270.1(c), prohibition of unpermitted disposal of hazardous waste – State: 7-302(a), prohibiting disposal of hazardous waste by evaporation. Note: this provision was adopted by the State in 1998 but was inadvertently not previously authorized and is being authorized now; Regarding Subchapter 4 of the State Regulations, Federal: 40 CFR 263.12, transfer facility requirements - State: clarifying requirements for the management of off-loaded containers of hazardous waste from transport vehicles, 7-404(b) (formerly 7-404(c)); Federal: 40 CFR part 263 – State: clarification when transporter requirements apply, 7-401(b)(1)(A) and 7-405(d); Regarding Subchapter 5 of the State Regulations, Federal: 40 CFR 264.1(g)(6), 265.1(c)(10) and 270.1(c)(2)(v), elementary neutralization and wastewater treatment unit exemptions – State: revised exemption (changed cross-reference) at 7-502(c); Federal: 40 CFR 262.34, as interpreted at 51 FR 10168 – State: 7-502(o) revisions to generator treatment in containers and tanks standards, except for 7-502(o)(8) and revision to the note following 7-502(o)(10) (not yet submitted for authorization), and addition of 7-502(k)(1)(C); Federal: 40 CFR 270.50, duration of permits – State: 7-504(g), changing from 5 year permits to 10 year

permits, as federally allowed; Regarding Subchapter 6 of the State Regulations, Federal: 40 CFR 260.30, variances – State: 7-608(d), (e) & (f) setting time limits on variances, as applied to any federally regulated wastes; Regarding Subchapter 8 of the State Regulations, Federal: 40 CFR 279.11, specification used oil burned for energy recovery – State: revised 7-801 and 7-802, and 7-812(c)(3) and added 7-804(g) (being authorized except for (g)(3) which is broader in scope); Federal: 40 CFR 279.20 – 279.24, generator standards – State: 7-807(h), added record-keeping requirement; Regarding Subchapter 9 of the State Regulations, Federal: 40 CFR 273.11 and 40 CFR 273.31, prohibitions of treatment by universal waste handlers – State: added Notes clarifying that drum top crushing is regulated as treatment rather than being considered an exempt recycling activity (this is equivalent to the federal approach with respect to universal waste handlers); Federal: 40 CFR part 273, Standards for Universal Waste Management – State: 10 V.S.A. sec. 6680 designating postconsumer paint as universal waste and setting management standards, 7-901, 7-910, 7-911, 7-912(a)&(b), 7-912(c)(1)&(c)(2)(A), 7-912(c)(2)Note, 7-912(c)(3), 7-912(f)-(k), 7-913, 7-914, 7-915, 7-916.

The final authorization of new state regulations and regulation changes is in addition to the previous authorization of state regulations, which remain part of the authorized program. Vermont initially received authorization for its base program requirements in 1985 and again in 1993. Vermont subsequently reformatted and renumbered various base program regulations, and submitted revised base program Checklists in connection with the EPA's 1999 authorization. The renumbered and reformatted provisions, as referenced in those Checklists, are part of the authorized program. See 64 FR 51706 (Sept. 24, 1999). The current authorized program consists of the base program requirements together with the additional requirements and changes

authorized by the EPA in the 1993, 1999, 2000, 2005 and 2007 authorizations. Added to this will be the requirements being authorized through this rulemaking today.

#### **H. Where Are the Revised State Rules Different from the Federal Rules?**

The most significant differences between the State rules being authorized and the Federal rules are summarized below. It should be noted that this summary does not describe every difference, or every detail regarding the differences that are described. Members of the regulated community are advised to read the complete regulations to ensure that they understand all of the requirements with which they will need to comply.

##### **1. More Stringent Provisions**

There are aspects of the Vermont program which are more stringent than the Federal program. All of these more stringent requirements are, or will become, part of the federally enforceable RCRA program when authorized by the EPA and must be complied with in addition to the State requirements which track the minimum Federal requirements. These more stringent requirements include the following: (a) the state has adopted the federal Academic Labs rule but has also added requirements for Laboratory Management Plans that are more stringent, 7-109(b)(4)(B) to (D); (b) the State has revised its exemption for commercial chemical product fuels in 7-204(l)(6) by more stringently specifying the management requirements for aggregation facilities. As noted in our 2007 authorization, the underlying State exemption is equivalent to the combination of the federal exemption for commercial chemical product fuels being burned for energy recovery and the federal exemption for commercial chemical products being reclaimed, in 40 C.F.R. 261.2(c)(2)(ii) and (c)(3), respectively.

## 2. Broader in Scope Provisions

There are also aspects of the Vermont program which are broader in scope than the Federal program. The portion of the State requirements which are broader in scope are not considered to be part of the Federally enforceable RCRA program. However, they are fully enforceable under State law and must be complied with by sources in Vermont. These broader in scope requirements include the following: (a) the state has revised its Used Oil regulations by adding management standards in 7-804(g) for used oil that has been shown to meet fuel burning specifications (“used oil fuel”). The broader in scope provisions are found in 7-804(g)(3); (b) With respect to point source discharges of wastewaters that are hazardous wastes, the State has amended state regulation 7-203(q) to only exempt from its hazardous waste regulations those discharges that are “in compliance with” State water act requirements rather than exempting from hazardous waste requirements all discharges that are “subject to” the State water act requirements. The comparable federal exemption at 40 C.F.R. 261.4(a)(2) exempts discharges that are “subject to” section 402 of the Clean Water Act. Thus the State is exempting fewer sources from hazardous waste regulation than does the federal exemption and is, therefore, regulating more broadly in scope.

## 3. Different but Equivalent Provisions

Vermont also has added a provision to its state statute which differs from the Federal regulations but has been determined to be equivalent to them. These State revisions will become part of the federally enforceable RCRA program when authorized by the EPA. These different but equivalent provisions are as follows. Vermont has added postconsumer paint to its Universal Waste rules through a state statutory provision found at 10 V.S.A. sec. 6680. We are authorizing this as being equivalent to the requirements of 40 CFR part 273 Subpart G since we have determined that it is an appropriate universal waste to approve and that the rules allow the States the flexibility to add additional wastes to their list of universal wastes. In particular, we are

authorizing the specific management requirements for these paint wastes as they are identified in the statute under sec. 6680(b) and (c). The statute also specifies that the existing state universal waste regulation requirements apply to the handling of postconsumer paint. In addition, EPA is reauthorizing the existing universal waste regulations as they are applied to the paint wastes.

**I. Who Handles Permits after the Authorization Takes Effect?**

Vermont will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will implement and issue permits for any HSWA requirements for which Vermont is not yet authorized in the future.

**J. What Is Codification and Is EPA Codifying Vermont's Hazardous Waste Program as Authorized in this Rule?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR Part 272. We reserve the amendment of 40 CFR Part 272, Subpart UU for this authorization of Vermont's program until a later date.

**K. Administrative Requirements**

The Office of Management and Budget (OMB) has exempted this action (RCRA State Authorization) from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or

uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a “significant regulatory action” as defined under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State’s application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 F.R. 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 F.R. 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation

of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This action nevertheless will be effective 60 days after it is published, because it is an immediate final rule.

#### **List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental



relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 5, 2013

**H. Curtis Spalding,**

Regional Administrator, EPA Region 1.

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